

1
2
3
4
5
6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA
8

9 Dianne Barker,

10 Plaintiff,

11 vs.

12 City of Phoenix, et al.,

13 Defendants.

No. CV-11-01543-PHX-NVW

ORDER


14
15 Before the Court is Plaintiff's "Motion for FRCP 60" (Doc. 13). Plaintiff protests
16 this Court's November 2, 2011 order dismissing her case without prejudice (Doc. 12).
17 Although the grounds on which Plaintiff protests are meritless, the Court has nonetheless
18 determined that dismissal was inappropriate. On September 7, 2011, the City's and
19 Mayor's motion to dismiss was granted, and Plaintiff received an opportunity to amend
20 her complaint against those two parties. She was warned that if she did not amend, the
21 Court would enter judgment in favor of the City and the Mayor and the rest of Plaintiff's
22 case would be remanded to state court (Doc. 8). Plaintiff's failure to amend by the stated
23 deadline should have triggered remand, but not dismissal.

24 To avoid any possibility of confusion, the Court will grant Plaintiff an additional
25 two weeks to attempt to amend her complaint against the City and the Mayor, if desired.
26 If no such complaint is received, the Court will enter judgment in favor of the City and
27 the Mayor and remand the remainder of the case to Superior Court.
28

1 IT IS THEREFORE ORDERED that this Court's November 2, 2011 order
2 dismissing this case (Doc. 12) is VACATED.

3 IT IS FURTHER ORDERED that Plaintiff may have until November 22, 2011, to
4 file an amended complaint attempting to state a claim against the City and the Mayor. If
5 Plaintiff does not so amend, judgment will be entered in favor of the City and the Mayor
6 without further notice to Plaintiff, and this action will be remanded to the Superior Court
7 as to the remaining defendants under 28 U.S.C. § 1367.

8 Dated this 8th day of November, 2011.

9
10 
11 _____
12 Neil V. Wake
13 United States District Judge
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28